tions the executive of the State has power to pardon." It is the same question as whether an offence is in a broad sense civil or criminal, — a wrong to the individual or a wrong to the State, — according to Blackstone's classification. "The question whether a statute of one State, which in some aspects may be called penal, is a penal law in the international sense, so that it cannot be enforced in the courts of another State, depends upon whether its purpose is to punish an offence against the public justice of the State, or to afford a private remedy to a person injured by the wrongful act." Therefore, though the statute in question, as it imposes a burdensome liability on the offenders, may be called penal in the sense that it is to be strictly construed, it is as to the creditor clearly remedial, relief being at his suit only, and limited to the damages suffered.

The Chief Justice dissents, holding the court has no jurisdiction, as it was for the Maryland court to determine whether the enforcement would involve the penal laws of another State; and State courts do not adjudicate the question of statutory delicts at their peril. No authorities on the point are quoted by the Chief Justice, and his short remarks can take off very little from the weight of the decision. The majority agree fully with the decision of the Privy Council, which they quote at length with approval, that the question of whether a statute is penal is not in any sense local, but one to be decided by the court where the remedy is sought. The Chief Justice goes on to say that full faith and credit were given to the judgment, since it was admitted in evidence. Here, too, he is content to let his statement stand on its own merits. But the provisions of the Constitution of the United States, as the court says, are to be read in the light of established principles; and, against the dissenting judge's bare statement that the Act of Congress was satisfied by merely treating the New York judgment as evidence, the majority opinion quotes many cases to show that, while there are certain limits to the effect to be given foreign judgments (they are not, for instance, on the footing of domestic judgments, and to be enforced by execution), yet, when duly pleaded and proved in the courts of another State, "they have the effect of being not merely *prima facie* evidence, but conclusive proof of the rights thereby adjudicated."

Legitimated Children as Heirs and Devisees. — At last, in *In re* Gray's Trust, [1892] 3 Ch. 88, the English courts have advanced to the third, and probably their last, position in the long-disputed question of the rights, as heirs and devisees, of children illegitimate by the law of England, but legitimated by the law of the country which saw their birth.

The testator bequeathed a portion of his estate, real and personal, to the children of his son. His son, domiciled in the Cape of Good Hope, had a child by a woman out of wedlock. Subsequently he married the woman. By the Roman-Dutch law of the Cape, this child, although *antenatus*, was legitimated for all purposes by the subsequent marriage. In England, of course, a child *antenatus* is not legitimated by the subsequent marriage of its parents. The question arose as to the child's taking the realty. To take he must be legitimate. But legitimate by what laws?

The questions at one time were whether legitimacy was a personal incident, — a quality of the *status* of the individual following the law of his domicile, — and whether one country should recognize, by the comity

nations, the laws of another country as to *status*. Those are now settled in the affirmative, and are to-day not in conflict. The controversy to-day is, Shall the law require, in addition to legitimacy (a matter settled by the law of the domicile), the other element, — that the person in question be legitimate in the certain way prescribed by the law of England ?

There are four forms in which the question arises : (1) May such legitimate child take personalty under the description of " child " in a will? (2) May he take personalty as next of kin to an intestate? (3) May he take realty under the description of " child " in a will? (4) May he take realty as heir to an intestate? The first was settled in the affirmative by *In re* Andros, 24 Ch. Div. 637 (1883); the second in the affirmative by *In re* Goodman's Trusts, 17 Ch. Div. 266 (1881); and the fourth in the negative by Doe d. Birtwhistle *v.* Vardill (1839). The third is now decided in the affirmative, and is the principal case.

The principle of international law on which the first three rest is equally applicable to the fourth, and would prevail in that case were it not for the peculiar feudal quality of common law land, with its tenures and its heirship. That principle is, that those laws of a State which apply to the capacity and personal condition, that is, the *status* of its citizens, attach to and go with them, and will be recognized by foreign States. Legitimacy is a matter of *status*.

In devises its application is simple. The will reads, " to children." The rules of construction of wills do not vary the terms, but simply say the legitimate children shall take. What children of a particular person are legitimate depends upon the law of his domicile.

If the case be one of intestacy, a distinction is to be taken between personalty and realty. Bearing in mind the different starting-points of the laws for the inheritance of realty and personalty, the reason for the difference appears. The heir to realty was one who should be upon the land, and bear its burdens as a feud, and take its profits. His connection with the land was very close. Personalty, however, by the administration of the ecclesiastical courts, was on intestacy, as well as in the case of a will, subjected to the rules of the civil law, with its idea of representation. The common law, moreover, looks upon goods and chattels as moving with the person. On his death intestate, the next of kin took, through the hands of the administrator. The connection of next of kin with the intestate was solely personal. Therefore the laws of *status* of his domicile declare which of his children are legitimate. While he who succeeds to realty, on the other hand, must not only be legitimate, but he must be legitimate *sub modo*, — legitimate in a certain way; the way prescribed by the law of England.

Since there are these reasons for the negative answer to the fourth case, it seems very unlikely that this answer will be changed. Thus all four are at last settled, and satisfactorily, even if the fourth go upon a feudal reason.